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PATENT
Customer No. 22,852
Attorney Docket No. 05793.3034-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
William J. TUMULTY et al.) Group Art Unit: 3644
)
Application No.: 09/820,982) Examiner: S.C. Alimenti
)
Filed: March 30, 2001)
)
For: SYSTEM AND METHOD FOR)
PRIORITIZING CUSTOMER INQUIRIES)
)
)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

In an Office Action dated Office Action dated July 13, 2004, the period for reply having been extended one month to August 13, 2004, the Examiner required election under 35 U.S.C. § 121 between:

- | | |
|-----------|--|
| Group I | Claims 1-11 and 22-32, drawn to an embodiment wherein a method and system receives an identification number from a customer and prioritizes a customer inquiry based on a prioritization score; |
| Group II | Claims 12-21 and 33-42, drawn to an embodiment wherein a method and system receives customer information from a customer in response to a set of inquiries and prioritizes a customer inquiry based on a prioritization score; and |
| Group III | Claims 43-55, drawn to an embodiment wherein a method and system retrieves customer information based on an identification code associated with a customer and prioritizes the customer inquiry based on a prioritization score. |

The Examiner next required that an election to one of the above groups be further narrowed according to paragraphs 2 to 4 of the Office Action.

Applicants adamantly disagree with the Examiner's characterizations and assertions regarding Applicants' claims and the alleged patentably distinct Groups and Species, and thus traverse the Election of Species Requirement. The Examiner has not shown that there would be any burden to examine all of the pending claims together, let alone a serious burden. The three groups of claims each relate to receiving an inquiry from a customer, prompting the customer for customer information, or retrieving customer information about the customer, and prioritizing the customer inquiry based on a prioritization score. But most importantly, the Examiner has already examined all of the pending claims issuing two Office Actions concerning these claims. At no time during prosecution did the Examiner contend that a burden existed to prosecute all the claims together. Nor does the Examiner state that there exist one now. Indeed, the Examiner provides no explanation in the Election Requirement why there would be a serious burden to examine all the groups together.

For these reasons, Applicants reserve the right to argue the distinctness or lack of distinctness of the claim Groups and Species at a later time. To respond to the Election Requirement, however, Applicants provisionally elect to prosecute Group I.A.c.i with traverse. Further, Applicants submit that Group I.A.c.i corresponds to at least claims 1-3, 5-11, 22-24, and 26-32. Accordingly, Applicants request that claims 1-3, 5-11, 22-24, and 26-32 be examined and that claims 4, 12-21, 25, and 33-55 be withdrawn at this time from consideration.

If the Examiner maintains the Election of Species Requirement, Applicants expect that the Examiner, if the elected species is found allowable, continue to examine the full scope of the pending claims to the extent necessary to determine the patentability of the withdrawn claims, i.e., extending the search to a reasonable number of the non-elected species, as is the duty according to M.P.E.P. § 803.02 and 35 U.S.C. § 121.

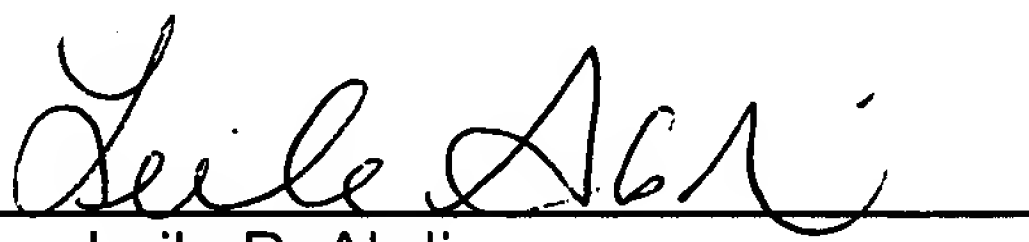
Accordingly, Applicants respectfully requests that the Election of Species Requirement be withdrawn.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: August 12, 2004

By: 
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